THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22733 of 2005

Dt:24.08.2007

Between:

Smt D.Durga Saraswathi.

.. Petitioner

and

A.P.Housing Board and others.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22733 of 2005

ORDER:

One Sri D.Sarveswara Rao, the son of the petitioner and husband of the 3rd respondent, was working in the Telephone Department. He applied for allotment of a house at Balaji Nagar, Hyderabad. Through letter, dated 02.02.1994, issued by the 2nd respondent, Sarweswara Rao was allotted house bearing No.MIGH 24. He has also made certain payments. Before the final transfer of the house could take place, Sarveswara Rao died on 25.09.2002. The petitioner approached respondents 1 and 2 with a request to transfer the plot in her favour. However, on a representation made by the 3rd respondent, respondents 1 and 2 did not accede to the

request of the petitioner. Hence, this writ petition is filed with a prayer to direct respondents 1 and 2 to execute necessary documents in favour of the petitioner, in relation to the house, referred to above.

The petitioner contends that her son had nominated her as the immediate successor and that there is no justification for respondents 1 and 2 in not acceding to her request.

Respondents 1 and 2 filed a counter affidavit, stating that further steps could not be taken in the matter, on account of the disputes between the petitioner and the 3rd respondent.

The 3rd respondent filed a counter affidavit, stating that she is entitled to equal share in the estate left by late Sarweswara Rao.

Heard learned counsel for the petitioner, learned Standing Counsel for respondents 1 and 2 and learned counsel for the 3rd respondent.

It is true that late Sarweswara Rao nominated the petitioner as his successor. However, the law of succession cannot be defeated, on account of the said

nomination. The marriage between Sarweswara Rao and the 3rd respondent is not disputed. Therefore, the 3rd respondent is also entitled to a share in the estate left by her husband.

Having realized the implications in the matter, the petitioner and the 3rd respondent agreed to take the property in equal shares. To that effect, the petitioner filed an affidavit and the 3rd respondent, who appeared before the Court, stated that she is agreeable for the transfer of the property in favour of the petitioner and herself in equal shares.

Hence, the writ petition is disposed of, directing respondents 1 and 2 to make allotment/transfer of house bearing No.MIGH 24 at Balajinagar, Hyderabad, jointly in the names of the petitioner and the 3rd respondent, within two (2) weeks from the date, on which the balance of the amount, if any, is paid. The amount due shall be shared by the petitioner and the 3rd respondent equally. The manner, in which the property shall be enjoyed by them, shall depend upon their mutual consent or any adjudication, that may take place, in future. There shall be no order as to costs.

24.08.2007

JSU